

REMARKS

Claims 44-69 have been examined. In response, Applicants have cancelled claims 51, 63, 65, 66, 68 and 69; amended claims 50, 52, 53, 55, 61 and 67; and added new claims 70-74. No new matter has been presented. Accordingly claims 44-50, 52-62, 64, 67 and 70-74 are pending. Favorable reconsideration and allowance is respectfully requested.

Applicants thank the Examiner for indicating that claims 44-50, 62 and 64-66 are allowable, that claims 55-60 would be allowable if rewritten to include all the limitations of the claims from which they depend, and that claim 63 would be allowable if rewritten to overcome the rejection thereof under 35 U.S.C. § 112, second paragraph.

In this regard, Applicants have combined the subject matter of claims 51 and 63 (which originally depended from claim 51) into new claim 70 and addressed the § 112 second paragraph rejection (discussed below). Hence, Applicants believe that claim 70 is also allowable. Additionally, the dependencies of claims 55-60 have been revised so that these claims depend directly or indirectly from claim 70; these claims should also be allowable.

The change to Claim 50 clarifies that it is the ferricyanide compound that has the specified solubility (not the ferricyanide ion).

With respect to new claims 71-74, claim 71 depends from Claims 64 and 44 to provide that the cartridge further comprises "an enzyme which is capable of reacting with an analyte in the sample to produce hydrogen peroxide." Claim 73 is similar but depends from Claim 67 and 70. Such subject matter is supported in original claims 1, 2, 14, and 15. Claims 72 and 74 depend respectively from claims 71 and 73 and further specify that the enzyme is glucose oxidase, which subject matter is supported in original claims 1, 3, 14, and 15.

Accordingly, Applicants believe that all the pending claims are in condition for allowance.

The 102 Rejections

The Examiner set forth three anticipation rejections, either under 35 U.S.C. § 102(b) or 102(e) as follows: (1) that Claims 51 and 67-69 are allegedly anticipated by Ikeda *et al.* (1988) Agric. Biol. Chem. 52:3187-3188 (hereafter "Ikeda") (2) that Claims 51, 53, 54 and 67-69 are allegedly anticipated by JP Patent Appln. No. 09-101281 to Goto *et al.* (hereafter "Goto"); and (3) that Claims 51, 53 and 67-69 are allegedly anticipated by U.S. Patent No. 4,224,125 to Nakamura *et al.* (hereafter "Nakamura"). Since Claim 51 is the only independent claim included among these rejected claims, and the remaining claims have been amended to depend from independent claims that the Examiner has previously deemed allowable, these rejections are rendered moot. Accordingly, Applicants respectfully request withdrawal of these three rejections.

As indicated above, new claim 70 is a combination of claim 51 and claim 63. The new claim thus specifies that the ferricyanide compound has a solubility of from 2,000 to 20,000 mg/L in pure water. In each of the references, Ikeda, Goto and Nakamura, the ferricyanide compound is potassium ferricyanide which as the Examiner is aware, is extremely soluble (the Examiner quoted a solubility of potassium ferricyanide of 304,000 mg/L at 0 °C to 1,304,000 mg/L at 100 °C). Clearly, potassium ferricyanide is not suitable for use in the present invention in view of its very high solubility.

Accordingly, claim 70 is not anticipated by the cited references. Further, since none of these references suggest making use of a ferricyanide compound having a significantly lower solubility than potassium ferricyanide, the present claims are not rendered obvious thereby.

The 103 Rejection

Claims 51-54, 61 and 67-69 have been rejected under 35 U.S.C. § 103(a) as allegedly rendered obvious by JP Patent Appln. No.07-103933 to Yamamoto *et al.* (hereafter "Yamamoto") in view of Chen *et al.* (1990) Clin. Chim. Acta 193:187-192 (hereafter "Chen"). Since Claim 51 is the only independent claim included among these rejected claims, and the remaining claims have been amended to depend from independent claims that the Examiner has previously deemed allowable, these rejections are rendered moot. Accordingly, Applicants respectfully request withdrawal of this rejection.

In Yamamoto, like the references cited above, the ferricyanide compound is potassium ferricyanide. Chen relates to the use of peroxidase with ferricyanide to measure hydrogen peroxide and does not ameliorate the deficiencies of Yamamoto. For the same reasons as above, new claim 70 and those claims dependent thereon are neither anticipated by Yamamoto nor rendered obvious by the combination of Yamamoto and Chen.

The 112, Second Paragraph Rejection

Claim 63 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly confusing with respect to the state (bound or free) of the ferricyanide compound and its solubility. In response, Applicants have (in new claim 70) clarified that the recited "ferricyanide compound is a ferricyanide compound having the specified solubility," *i.e.*, that the compound when in unbound form would have a solubility from 2,000 to 20,000 mg/L in pure water. The language of the claim is meant to identify a characteristic of the ferricyanide compound and does not alter the state of that compound as being bound to a polymer. Accordingly, Applicants respectfully request withdrawal of this rejection.

Double Patenting Rejection

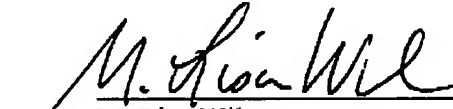
Claims 66 has been objected to under 37 C.F.R. § 1.75 as allegedly a substantial duplicate of claim 65. Claim 69 has been similarly objected to as a substantial duplicate of Claim 68. All four claims have been canceled thereby obviating this rejection.

Conclusion

In view of the foregoing amendments and remarks, Applicants firmly believe that the examined subject matter is in condition for allowance, which action is earnestly solicited. If any issues remain outstanding after consideration of this Amendment, the Examiner is invited to contact the undersigned to expedite prosecution of this case.

Respectfully submitted,

Date: June 22, 2006


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